

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23374 of 2005

Between:

Ratala Ramu Naik

..... PETITIONER

AND

The Government of Andhra Pradesh

represented by its Principal Secretary

to the Civil Supplies,
Secretariat, Hyderabad and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the proceedings issued by the 2nd respondent vide Rc.No.1663/05B, dated 03.08.2005 suspending the dealership of the petitioner for fair price shop of Venkatayapalem village, Bellamkonda Mandal, Guntur District, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

It is stated that the petitioner is a fair price dealer of Venkatayapalem village, Bellamkonda Mandal, Guntur District vide authorization dated 22.08.2004, which is valid upto 31.03.2006. It is further stated that the Station House Officer, Bellamkonda registered a case in Crime No.20/2005 on 02.07.2005 against the petitioner for misappropriation of 129.70 quintals of SGRY rice. It is also stated that even before issuing any show cause notice or suspension order pending enquiry, the 3rd respondent kept one Smt.G.Rama Devi, adjacent fair price shop dealer of Mannesultampalem as temporary additional charge of the fair price shop of the petitioner from June, 2005 until further orders vide his proceedings dated 18.06.2005. Thereafter, a show cause notice dated 03.08.2005 was issued and simultaneously proceedings dated 03.08.2005 suspending his fair price dealership was issued by the 2nd respondent stating that as it is proved in preliminary enquiry that the petitioner diverted Q.129.70 SGRY rice to the black market, his authorization as fair price shop dealer of Venkatayapalem village, Bellamkonda Mandal, is kept under suspension, and the action taken by the 3rd respondent in keeping Smt.G.Rama Devi, fair price shop dealer, M.S.Palem village as incharge dealer in the place of the petitioner is ratified. Hence, the petitioner is constrained to file this writ petition.

On a perusal of the material available on record, it is found that the 3rd respondent, without issuing any show cause notice to the petitioner, placed the adjacent fair

price shop dealer as incharge of fair price shop of the petitioner, which is, prima facie, illegal and improper. Likewise, the ratification of the action of the 3rd respondent, made by the 2nd respondent in his proceedings dated 03.08.2005 is also illegal and improper.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, setting aside the order of the 3rd respondent dated 18.06.2005, and consequently, setting aside the proceedings of the 2nd respondent dated 03.08.2005, insofar as ratifying the action of the 3rd respondent in passing order dated 18.06.2005. But, insofar as the action of the 2nd respondent in issuing show cause notice dated 03.08.2005 and keeping the dealership of the petitioner under suspension by proceedings dated 03.08.2005, is not interfered with. However, it is left open to the 2nd respondent to take appropriate action for making alternative arrangements in respect of the fair price shop of the petitioner, pending consideration of the explanation if any submitted by the petitioner and passing of final orders thereon.

I am of the opinion that issuing show cause notice, calling upon explanation is different and distinct from that of suspending the authorization pending enquiry. If the petitioner had already submitted his explanation to the show cause notice dated 03.08.2005, the 2nd respondent may consider the same and pass appropriate orders thereon, in accordance with law.

With the above observations, the Writ Petition is disposed of. No order as to costs.

V.ESWARAIAH,J

Dated: 31.10.2005

Dsr